

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

JOSHUA LANG WHIGAN,)
)
Petitioner,) CIVIL ACTION NO.
) 2:19cv685-MHT
v.) (WO)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

This case is before the court on petitioner's notice of interlocutory appeal of the order denying his motion for leave to file a motion for judgment of acquittal, as well as his motion for leave to appeal in forma pauperis. Because the order (doc. no. 23) from which petitioner appeals is not a final judgment, see 28 U.S.C. § 1291, and is not subject to an interlocutory appeal under 28 U.S.C. § 1292(a), the court construes the notice of appeal (doc. no. 25) as containing a motion to certify a question for interlocutory appeal pursuant to 18 U.S.C. § 1292(b). (This would be the only other way for an interlocutory appeal to proceed.)

Section 1292(b) states: "When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order." *Id.* The court finds that the questions involved in petitioner's appeal do not meet this standard.

Accordingly, it is ORDERED that petitioner's motion to certify a question for interlocutory appeal (doc. no. 25) is denied.

It is further ORDERED that petitioner's motion for leave to appeal in forma pauperis (doc. no. 26) is denied as moot.

DONE, this the 8th day of December, 2020.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE